

**Senate Transportation and Safety Committee 1**

**Amendment No. 1 to SB1348**

**Bailey  
Signature of Sponsor**

**AMEND Senate Bill No. 1348**

**House Bill No. 1352\***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-31-1203, is amended by deleting the section in its entirety and substituting instead the following:

(a) The department of finance and administration shall establish the Tennessee transportation state infrastructure fund, in the state treasury, under the control of the authority.

(b) For necessary and convenient administration of the fund, the authority shall establish accounts and subaccounts as necessary to meet any applicable federal law requirements or as necessary or desirable in order to implement this part.

(c) All funds received by the state from federal government sources shall be invested as required by applicable federal law, and all other funds shall be invested pursuant to state law.

(d) Funds in the Tennessee transportation state infrastructure fund may be invested by the state treasurer pursuant to an investment policy approved by the state funding board. This investment policy may authorize any investment permitted under title 9, chapter 4, part 6. Investment of funds in the Tennessee transportation state infrastructure fund shall be for the sole benefit of the fund, and interest accruing on investments and deposits of the fund shall be returned to the fund and remain part of the fund.

(e) All interest and earnings of the fund shall remain a part of the fund.

(f) It is the legislative intent that new commitments made from the fund shall not exceed the appropriations made to the fund. It is further the legislative intent that in

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each fiscal year the fund be managed so that actual expenditures and obligations to be recognized at the end of the fiscal year shall not exceed any available reserves and appropriations of the fund.

(g) No part of the fund shall revert to the general fund on any June 30, but shall remain a part of the Tennessee transportation state infrastructure fund available for expenditure in accordance with this part.

SECTION 2. Tennessee Code Annotated, Section 4-31-1204, is amended by deleting the section in its entirety and substituting instead the following:

(a) The state treasurer shall transfer the balance from the existing fund for the Tennessee state infrastructure bank, administered by the department of transportation, on July 1, 2009, to the fund established in § 4-31-1203.

(b) The following sources may be used to capitalize the fund and for the authority to carry out its purposes:

(1) Appropriations by the general assembly;

(2) Federal funds apportioned and available to the state, as approved by the department of transportation;

(3) Contributions, donations, grants, and deposits from the federal government, government units, private entities, and any other source as may become available to the fund; and

(4) All payments of principal and interest on loans or pursuant to the financing agreements.

(c) Notwithstanding any law to the contrary, funds to the Tennessee transportation state infrastructure fund shall not be derived from any revenues otherwise

allocated by law to the state highway fund established in title 54, chapter 2, part 1, or any revenues otherwise allocated to and deposited in the transportation equity trust fund established in title 9, chapter 4, part 2.

(d) In addition to the powers specified in part 1 of this chapter, the authority may request and receive funds from federal, state, or other government sources or from private entities. The authority may request the department of transportation, or other state agencies or officials, as appropriate, to act on its behalf or to assist in making application for such funds. All funds received from government or private sources shall be deposited in the fund to be used in accordance with this part.

(e) The authority shall comply with all applicable federal laws and regulations prohibiting the commingling of certain federal funds deposited in the fund.

(f) The authority may enter into cooperative agreements with agencies of the federal government or other state agencies as necessary or desirable to implement this part.

SECTION 3. Tennessee Code Annotated, Section 4-31-1205, is amended by deleting the section in its entirety and substituting instead the following:

(a) The commissioner of transportation shall review a proposed project and shall determine if it is an eligible project and, if so, whether to recommend the project to the authority. Preference may be given to eligible projects that have financial support in addition to any loan that may be received from the fund.

(b) Upon recommendation by the department of transportation of a qualified project, the authority has the power and is authorized to make loans to a qualified borrower; provided, that the fund has sufficient money to make the loan to pay for all or part of the eligible costs of a qualified project. The term of the loan shall not exceed the useful life of the project, as determined by the authority in consultation with the department of transportation. The authority shall require the qualified borrower to enter into a financing agreement in connection with its loan. The authority, in consultation with

the department of transportation, shall determine the form and content of loan applications and financing agreements, including the term and rate or rates of interest on a financing agreement and security required. The authority shall determine the interest rate for a loan under this part in a manner consistent with interest rates established for loans under title 68, chapter 221, part 10. The authority may consider partial grants, lower interest rates for loans, or zero percent (0%) interest rates for loans, and, as part of such consideration, the authority shall consider economic development goals and utilize an economic index based upon factors which include, but are not limited to, per capita incomes and property values of the qualified borrower. Qualified borrowers falling within the lower economic scale on the index shall be eligible for partial grants, lower interest rates for loans, or zero percent (0%) interest rates for loans. The terms and conditions of a loan made with federal funds shall comply with applicable federal requirements.

(c) Loans shall be made only to qualified borrowers who:

(1) In the opinion of the authority demonstrate financial capability to assure sufficient revenues to operate and maintain the eligible project for its useful life and to repay the loan;

(2) Pledge the security as required by the authority for repayment of the loan;

(3) Provide assurances that are reasonably requested by the authority and the department of transportation; and

(4) Agree to maintain financial records in accordance with governmental accounting standards and to conduct an annual audit of the project's financial records in accordance with generally accepted governmental auditing standards and with minimum standards prescribed by the comptroller of the treasury, and to file the audit with the comptroller. In the event of the failure or refusal of a qualified borrower to have the audit prepared, the comptroller may appoint an

accountant or direct the department of audit to prepare the audit at the expense of the borrower.

(d) The department of transportation shall review and approve, and submit to the authority for reimbursement, such eligible costs as may be incurred by a qualified borrower for a qualified project. For this purpose, the department of transportation shall have authority to inspect the work, examine project records, and employ consultants as it deems appropriate to assist in carrying out such functions. To cover the costs of performing such functions, the department of transportation may charge the costs to the qualified project as an eligible cost and receive reimbursement for the costs from the authority.

(e) The authority may assess a loan fee to cover the costs of administration of the program. The fee may be apportioned between the authority and the department of transportation.

(f) Any qualified project funded under the Tennessee transportation state infrastructure fund shall be maintained by the government unit that owns the qualified project.

SECTION 4. Tennessee Code Annotated, Section 4-31-1208, is amended by deleting the section in its entirety and substituting instead the following:

(a) Following the close of each state fiscal year, the authority shall submit an annual report of its activities for the preceding year to the governor, the speaker of the house of representatives, the speaker of the senate, the state treasurer, the comptroller of the treasury, the directors of the office of legislative budget analysis, and the secretary of state, and make the report available to the general assembly. The report shall include at least the following information:

(1) The total amount of funds available in the fund on July 1 of the fiscal year;

(2) The amount of funds approved for each project under development and not yet complete in the fiscal year;

(3) A brief description of each project approved and the status of each project; and

(4) The total unobligated appropriation on June 30 of the fiscal year.

(b) The authority also shall submit an annual report to the appropriate federal agency in accordance with requirements of any federal program.

(c) The annual reports and all books of accounts and financial records of the authority shall be subject to audit annually by the comptroller of the treasury.

SECTION 5. This act shall take effect July 1, 2017, the public welfare requiring it.